

the night of the fatal occurrence at Brown's house. Mary Moore also testified that she lived opposite Brown's, and was up that night ironing clothes; went to close her window and heard the report of the pistol; did not see any one pass along Tyson street while she was at her window. Gill had testified he passed.

Charles Stewart, colored, testified he was a shoemaker, on Tyson street; heard some singing and there might have been playing, but was not disturbed by the noise.

THE LUMBER PILE.

Augustus Bouldin testified to a plat he had made Saturday morning of the locality of the lumber pile, which is nine feet from the building-line, and one or two houses between it and Brown's. Standing on the remains of the lumber pile there now he could not see any part of the house, No. 41, except the extreme edge of the steps—the view is obstructed by the houses. There is only about three feet height of the pile now, the fragment of a pile.

Reuben Cassaway White, a colored man, testified he was in the employ of Mr. David Carson, lumber dealer, and sometimes arranged the lumber piles, and did that last July and August. When he went to Mr. Carson's last April the pile near Brown's house was about four feet high and remained so until a few weeks ago.

QUESTIONS BY THE JURY.

Some of the jurymen questioned the witness as to the location, size, &c., of the lumber pile, and in his answers he said the sidewalk on Park street is paved half way; there is no fence in front of the pile; he thinks they never had any lumber piled fronting on Tyson street; there was no lumber on the pavement, but the boys would sometimes roll the timber up on the joist pile and it would roll clear over into Tyson street; nearly every morning had to straighten up the pile.

THE DEFENSE IN REBUTTAL.

Officer Tye, called by defense, testified that from the lumber pile, as it stands now, he can see the sidewalk at Brown's house, but not the steps of the house; but could see a person on Brown's steps; the fence referred to by the State's witnesses was there now, but did not obstruct his view. This closed the testimony on both sides.

REMARKS OF MR. STOCKBRIDGE.

The argument before the jury was commenced by Mr. Stockbridge for the State, who said this case was momentous beyond ordinary cases of murder, because the person charged with the crime was a police officer, whose duty it was to protect the life and property of the very person he killed. The jury are called upon to consider and determine the rights and duties of police officers in such cases, and the rights of citizens to be protected from the unlawful entrance of officers into their houses and from unlawful arrests.

A colored person has as perfect a right as any other citizen to have a social party or ball at his house without getting a permit. There is no law requiring a colored person to get a permit before he can have such a party at his house. If he has a pay party, for which a city ordinance says he must have a permit, he is only liable for a fine of \$10 to \$20 for failing to get a permit, to be collected as other fines, and no officer has the right to enter his house and arrest him or his friends while the party is going on. A policeman has no right to assume that unwonted respect is due him by prisoners or supposed offenders, and to fly into a passion at what he chooses to consider impudence. The impudence with the policeman depends very much on who gives it. That which coming from some persons gives no offence to him, coming from a man of the class of him whose life was taken in this case, is intolerable. Mr. Stockbridge also argued that the prisoner had time to cherish that malice which makes murder in the first degree, and he claimed a verdict of murder.

At the close of Mr. Stockbridge's argument the court, at 3 P. M., adjourned till to-day, when the case will be concluded.

The Cake-Walk Homicide.

TRIAL OF PATRICK M'DONALD FOR THE MURDER OF DANIEL BROWN, COLORED—EVIDENCE FOR THE DEFENSE—ARGUMENT COMMENCED.

[Reported for the Baltimore Sun.

Evidence of Thomas Gill for the defense commenced at the opening of the Criminal Court on Saturday in the trial of Patrick McDonald for the murder of Daniel Brown, colored, last July, in what is known as the cake-walk homicide. Gill has been a brakeman on the "string team," Northern Central railroad, as he testified on Friday, for two months, and on the night of Brown's death he was lying on a pile of lumber at the street corner 140 feet from Brown's house, No. 41 Tyson street. He had come to Baltimore the day before looking for work, and had no means nor home to go to, and so took up his lodging place on the lumber pile, whence he came to see and hear what he did of the disturbance at Brown's; saw the policeman struck at by one of three colored men at Brown's door, and he either went into the house or was hustled or dragged in by the three men and the door locked.

Gill was cross-examined in the most searching and exhausting manner by the State to test the reliability of his testimony. He said he was born in Harford county; lived several years at Towson town and Ashland, until about eighteen years old; occasionally came into Baltimore city, but cannot tell the streets or any places he went to; does not know any of the streets he was on the 20th and 21st days of July; can take the State's officer to the baker's at Mount Vernon factory where he asked for work; witness lives on North street now.

THE POLICEMAN'S MORNING REPORT.

Lieut. Fitzgerald testified he is a lieutenant in the northwestern district, to which McDonald was attached; was in charge of the station-house on the morning of July 31, when McDonald made his official report to his official superior of what had taken place, as was his duty under the regulations of the police force. The fact that this report was made was objected to by the State, the objection being urged not only to the fact of the report but to its contents.

DECISION ON THE REPORT.

Mr. Poe said they offered the factum of the report to show that the officer was not conscious of having committed any wrong act and observed the ordinary line of duty.

After hearing some suggestions from the State against its admission, Judge Gilmer said he would admit the evidence that the prisoner made such a report, but he was averse to the admission of evidence of the contents of the report. He said he would hear what the defense had to say on the point.

Mr. Hambleton argued briefly for the admission of the report. He said an officer's lips should not be closed utterly when called to perform a duty, hazardous, perhaps, at the hour of midnight, with no citizen present, except the friends of the disorderly violators of the law. It is true the law did not permit an accused party to testify in his own case, though in New Hampshire and some other States it was different. But there had been an attempt made to show that McDonald had shaved after being sent to jail with a view to indicate that he wished to render identification difficult, and is it not competent for the defense to repel this by a statement under his own hand showing that he was the officer who was at Brown's?

Judge Gilmer said he had many times decided the same question. A party's own statements cannot be received in evidence for the defense. The principle was too well established to be departed from. The contents of the report were therefore excluded. Exception was reserved by the defense.

Sergeant Zimmerman was asked if McDonald had a family, but objection to this evidence was made by the State, and it was kept out. It has been stated McDonald has a family, and some of the females of it have been in court daily.

REBUTTING EVIDENCE.

The State then called its witnesses in rebuttal:

Mary Moore, Roetta Bailey, colored, Mr. Crawford, who lived at the corner of Tyson alley and street, there being a feed store between his house and Brown's, Miss Crawford, all testified that there was no noise to disturb their sleep on